

Introduced by Senator Lara

February 19, 2014

An act to amend Sections 1981, 1983, 48660.1, 48662, and 48918 of, to add Sections 1981.5 and 48662.5 to, and to repeal Section 1981.2 of, the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, as introduced, Lara. Pupils: involuntary transfer: county community schools and community day schools.

(1) Existing law authorizes a county board of education to establish and maintain one or more community schools into which the county board of education may enroll specified pupils, including, but not limited to, pupils who are expelled for specified reasons, referred as the result of the recommendation by a school attendance review board, probation referred, or homeless children.

This bill would revise the list of pupils who may be involuntarily enrolled in a county community school to limit the kind of probation referrals and remove homeless children. The bill, with regard to pupils referred as the result of a recommendation by the school attendance review board, would require that the school district and the county office of education determine that the county community school has space available to enroll the pupil, that the pupil's educational needs will be met by the county community school, and that the parent, guardian, or responsible adult of the pupil does not expressly object to the referral. The bill would require the school attendance review board to include a school option that is geographically accessible, as defined, to the pupil, if the county community school is not geographically accessible, as specified. The bill would also provide that the pupil has the right to return to his or her previous school, or other appropriate school, at the

end of the semester following the semester when the acts leading to referral occurred. The bill would allow enrollment of certain other pupils in a county community school with the consent of the pupil's parent, guardian, or responsible adult. The bill would authorize, with respect to certain probation referrals to a county community school, certain persons, including the attorney for a pupil who is under the jurisdiction of a delinquency court, to take specified actions related to the enrollment of a pupil in a county community school.

(2) Existing law requires a county community school to prescribe an individually planned educational program based on an educational assessment for each pupil. Existing law requires the course of study of a county community school to be adopted by the county board of education to enable each pupil to continue academic work leading to the completion of a regular high school program.

This bill would require county boards of education operating county community schools to ensure, among other things, that appropriate services and programs specified in a pupil's individualized education program are provided.

(3) Existing law authorizes the governing board of a school district to establish one or more community day schools for pupils in any of kindergarten and grades 1 to 12, inclusive. Existing law authorizes the governing board of a school district to assign a pupil to a community day school only if the pupil meets specified conditions, including, but not limited to, being expelled, being referred by a school attendance review board or other district-level referral process, and being probation referred pursuant to specified law.

This bill would revise the list of pupils who may be involuntarily transferred to a community day school to limit the kind of probation referrals. The bill would impose certain conditions on the involuntary transfer of a pupil referred by the school attendance review board or other district-level referral process and would require the school attendance review board or other district-level referral process to include a geographically accessible school option if the community day school is not geographically accessible. The bill would allow enrollment of certain other pupils in a community day school with the consent of the pupil's parent or guardian. The bill would authorize, with respect to certain probation referrals to a community day school, certain persons, including the attorney for a pupil who is under the jurisdiction of a delinquency court, to take specified actions related to the enrollment of a pupil in a community day school.

(4) Existing law states the intent of the Legislature that community day schools include specified program components, including, but not limited to, individualized instruction and assessment.

This bill would state the intent of the Legislature that, if an individualized assessment shows that the pupil requires additional educational services that are not offered at the community day school, the parent, guardian, or responsible adult of the pupil shall be informed, and that the probation officer relative to a pupil ordered placed in a community day school by court order shall also be informed. The bill would require school districts operating community day schools to ensure that appropriate services and programs, as provided, are provided to certain pupils, as specified. The bill would authorize a school district to require a pupil, with the consent of his or her parent or guardian, to enroll in a county-supported drug rehabilitation program pursuant to a specified provision.

(5) This bill would provide a pupil who has been involuntarily enrolled in a county community school or a community day school the right to reenroll in his or her former school or another comprehensive school immediately after being readmitted from an expulsion order or court-ordered placement. The bill would provide that only the governing board of the school district that issued the initial order or subsequent order to expel may extend the duration of an expelled pupil's placement in a county community school or a community day school.

(6) Existing law requires the governing board of each school district to establish rules and regulations governing procedures for the expulsion of pupils. Existing law requires the adopted rules and regulations to require, if a hearing officer or administrative panel decided not to recommend expulsion, the expulsion proceedings to be terminated and the pupil to be immediately reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs.

This bill would require the adopted rules and regulations to instead require that the pupil be permitted to return only to the classroom instructional program from which the expulsion referral was made, unless a parent, guardian, or responsible adult of the pupil requests another school placement in writing. The bill would, before the placement decision is made by the parent, guardian, or responsible adult, require the superintendent of schools or the superintendent's designee to consult with school district personnel, including the pupil's teachers, and the parent, guardian, or responsible adult regarding any

other school placement options for the pupil in addition to the option to return to his or her classroom instructional program from which the expulsion referral was made. By requiring the governing board of a school district to establish or revise the rules and regulations governing procedures for the expulsion of pupils, the bill would impose a state-mandated local program.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1981 of the Education Code is amended
2 to read:
3 1981. The county board of education may enroll *pupils* in a
4 *county community school* ~~pupils~~ who are any of the following:
5 (a) Expelled from a school district for any reason other than
6 those specified in subdivision (a) or (c) of Section 48915.
7 (b) ~~(1) Referred to a county community schools school by a~~
8 ~~school district as a result of the recommendation by a school~~
9 ~~attendance review board or pupils whose school districts of~~
10 ~~attendance have, at the request of the pupil's parent or guardian,~~
11 ~~approved the pupil's enrollment in a county community school.~~
12 *board. A pupil shall not be referred to a county community school*
13 *by a school district unless the school district and the county office*
14 *of education determine all of the following:*
15 (A) *The county community school has space available to enroll*
16 *the pupil.*
17 (B) *The county community school meets the educational needs*
18 *of the pupil.*
19 (C) *The parent, guardian, or responsible adult of the pupil has*
20 *not expressly objected to the referral.*
21 (2) *If the county community school recommended pursuant to*
22 *paragraph (1) is not geographically accessible to the pupil, the*

1 school attendance review board shall also include in its
2 recommendation a school option for the pupil that is
3 geographically accessible to the pupil and for which the school
4 district and the county office of education determine all of the
5 following:

6 (A) The recommended school option has space available to
7 enroll the pupil.

8 (B) The recommended school option meets the educational needs
9 of the pupil.

10 (C) The parent, guardian, or responsible adult of the pupil has
11 not expressly objected to the recommended school option.

12 (3) The pupil has the right to return to his or her prior school
13 or another appropriate school within his or her school district at
14 the end of the semester following the semester when the acts
15 leading to referral occurred.

16 (c) (1) (A) On probation, with or without the supervision of a
17 probation officer and consistent with an order of a juvenile court,
18 who are considered to be wards of the court under Sections 601
19 and 602 of the Welfare and Institutions Code and ordered placed
20 pursuant to Sections 725, 729.2, and 791 of, and paragraph (2)
21 of subdivision (a) of Section 727 of, the Welfare and Institutions
22 Code.

23 ~~(e) (1) Probation-referred pursuant to Sections 300, 601, 602,~~
24 ~~and~~

25 (B) Under the supervision of a probation officer, with the
26 consent of the minor and the minor's parent or guardian, pursuant
27 to Section 654 of the Welfare and Institutions Code.

28 (C) Under the supervision of a probation officer pursuant to
29 Section 726 and paragraph (3) of subdivision (a) of Section 727
30 of the Welfare and Institutions Code with the consent of the pupil's
31 parent, guardian, or responsible adult appointed by the juvenile
32 court to make educational decisions for the pupil. The enrollment
33 of a minor covered by this paragraph in a county community school
34 shall be consistent with paragraph (2) of subdivision (c) of Section
35 726 of the Welfare and Institutions Code, which provides that all
36 educational and school placement decisions shall seek to ensure
37 that the youth is in the least restrictive educational program, has
38 access to the academic resources, services, and extracurricular
39 and enrichment activities that are available to all pupils, and are
40 based on the best interests of the child.

1 (D) Unless specifically ordered by a juvenile court, nothing in
2 this subdivision shall be construed to conflict with the existing
3 rights of a parent, guardian, or responsible adult appointed by
4 the juvenile court pursuant to Section 726 of the Welfare and
5 Institutions Code to make educational placement decisions for the
6 minor.

7 (E) With respect to a pupil's enrollment in a county community
8 school pursuant to subparagraph (B) or (C), and consistent with
9 paragraph (2) of subdivision (c) of Section 726 of the Welfare and
10 Institutions Code and California Rule of Court 5.651, all of the
11 following shall apply:

12 (i) The attorney for, or the person holding the educational rights
13 of, a pupil who is under the jurisdiction of the delinquency court
14 may use the procedures set forth in California Rule of Court 5.651
15 to address any change of placement that results in the enrollment
16 of the pupil in a county community school that is not his or her
17 school of origin.

18 (ii) The attorney or the person holding the educational rights
19 appointed by the court for a pupil who is under the jurisdiction of
20 the delinquency court may, during a regularly scheduled hearing,
21 raise any concerns with respect to whether the enrollment of the
22 pupil in a county community school is meeting the educational
23 needs of the pupil.

24 (iii) Nothing in this subparagraph is intended to limit in any
25 way the rights or responsibilities of any person as set forth in
26 paragraph (2) of subdivision (c) of Section 726 of the Welfare and
27 Institutions Code and California Rule of Court 5.651.

28 (2) On probation or parole and not in attendance at any school,
29 where enrollment is with the consent of the parent, guardian, or
30 responsible adult, or the pupil, if he or she is 18 years of age or
31 older. ~~Nothing in any school.~~ this subdivision shall impact the
32 provision of services or funding for youth up to 25 years of age
33 pursuant to subdivision (b) of Section 1982, as that section read
34 on September 25, 2013.

35 (3) Expelled for any of the reasons specified in subdivision (a)
36 or (c) of Section 48915.

37 (4) Enrollment in a county community school pursuant to this
38 subdivision shall be consistent with subdivision (b) of Section
39 48645.5.

(d) ~~Homeless children.~~ Pupils whose school districts of attendance, or, for pupils who do not have school districts of attendance, school districts of residence, have, at the request of the pupil's parent, guardian, or responsible adult, approved the pupil's enrollment in a county community school, subject to the following:

(1) A pupil shall not be enrolled in a county community school pursuant to this subdivision unless the school district determines that the placement will promote the educational interests of the pupil and the county community school has space available to enroll the pupil.

(2) A parent, guardian, or responsible adult of a pupil enrolled in a county community school pursuant to this subdivision may rescind the request for the placement, and the pupil shall be immediately reenrolled in the school that the pupil attended at the time of the referral, or, with the consent of the parent, guardian, or responsible adult, another appropriate school.

(e) The procedures outlined in subdivisions (b) to (e), inclusive, of Section 51225.2 govern the transfer of credits, records, including special education records, and grades required pursuant to subdivision (a) of Section 48645.5 and Section 49068 when the pupil transfers to and from the county community school.

(f) For purposes of this section, "geographically accessible" means that the pupil can reasonably travel to and from the school and is able to pay for any transportation costs that are above and beyond the costs to attend his or her school of residence or prior school, whichever is farther away.

SEC. 2. Section 1981.2 of the Education Code is repealed.

~~1981.2. For purposes of this chapter, the term "homeless children" means either of the following:~~

~~(a) A schoolaged child who lacks a fixed, regular, and adequate nighttime residence.~~

~~(b) A schoolaged child who has a primary nighttime residence that is any of the following:~~

~~(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations.~~

~~(2) An institution that provides a temporary residence for individuals intended to be institutionalized.~~

~~(3) A temporary, makeshift arrangement in the accommodations of other persons.~~

1 ~~(4) A public or private place not designed for, or ordinarily used~~
2 ~~as, a regular sleeping accommodation for human beings.~~

3 SEC. 3. Section 1981.5 is added to the Education Code, to
4 read:

5 1981.5. (a) A pupil who is involuntarily enrolled in a county
6 community school pursuant to subdivision (a) of, or subparagraph
7 (A) of paragraph (1) or paragraph (3) of subdivision (c) of, Section
8 1981 shall have the right to reenroll in his or her former school or
9 another comprehensive school immediately after being readmitted
10 from the expulsion order pursuant to Section 48916 or
11 court-ordered placement. Nothing in this section is intended to
12 limit the school placement options that a school district may
13 recommend for a pupil being readmitted.

14 (b) Consistent with the process and procedures set forth in
15 Section 48916, only the governing board of the school district that
16 issued the initial order or subsequent order to expel may extend
17 the duration of an expelled pupil's placement in a county
18 community school.

19 SEC. 4. Section 1983 of the Education Code is amended to
20 read:

21 1983. (a) Pupils enrolled in county community schools shall
22 be assigned to classes or programs deemed most appropriate for
23 reinforcing or reestablishing educational development.

24 (b) ~~Such~~ These classes or programs may include, but need not
25 be limited to, basic educational skill development, on-the-job
26 training, ~~tutorial assistance, independent study requirements, school~~
27 ~~credit recovery assistance, tutorial assistance,~~ and individual
28 guidance activities.

29 (c) *To the extent that independent study is determined to satisfy*
30 *the individually planned educational program described in*
31 *subdivision (d) for a pupil attending a county community school,*
32 *it shall meet all the requirements of Article 5.5 (commencing with*
33 *Section 51745) of Chapter 5 of Part 28 of Division 4 of Title 2,*
34 *including the requirement that entry into that program is voluntary.*

35 ~~(e)~~

36 (d) An individually planned educational program based upon
37 an educational assessment shall be prescribed for each pupil.

38 ~~(d)~~

39 (e) The course of study of a county community school shall be
40 adopted by the county board of education and shall enable each

pupil to continue academic work leading to the completion of a regular high school program.

(f) Pursuant to Part 30 (commencing with Section 56000) of Division 4 of Title 2 of this code, Chapter 33 (commencing with Section 1400) of Title 20 of the United States Code, and accompanying state and federal regulatory provisions, county boards of education operating county community schools shall ensure that assessments are administered in all areas of suspected disability and appropriate services and programs as specified in a pupil's individualized education program are provided.

(g) County boards of education operating county community schools shall ensure that appropriate services and programs designed to address the language needs of pupils identified as English learners are provided in compliance with all applicable state and federal laws and regulatory provisions.

SEC. 5. Section 48660.1 of the Education Code is amended to read:

48660.1. (a) It is the intent of the Legislature that school districts operating community day-schools schools, to the extent possible possible, include the following program components:

~~(a)~~

(1) School district cooperation with the county office of education, law enforcement, probation, and human services agencies personnel who work with at-risk youth.

~~(b)~~

(2) Low pupil-teacher ratio.

~~(c)~~

(3) Individualized instruction and assessment. *If an individualized assessment shows that the pupil requires additional educational services, supports, such as mental health counseling, or classes, that are not offered at the community day school, the parent, guardian, or responsible adult of the pupil shall be informed. If the pupil has been placed pursuant to a court order as described in paragraph (2) of subdivision (a) of Section 48662, the probation officer shall also be informed.*

~~(d)~~

(4) Maximum collaboration with school district support service resources, including, but not limited to, school counselors and psychologists, academic counselors, and pupil discipline personnel.

1 (5) A course of study that enables each pupil to continue
2 academic work leading to the completion of a regular high school
3 program.

4 (b) (1) For an expelled pupil, if the plan of rehabilitation
5 required pursuant to subdivisions (b) and (c) of Section 48916
6 requires access to a particular service or program for the pupil
7 to meet its conditions, the school district shall assist the pupil in
8 identifying those services or programs. The school district shall
9 not deny a pupil readmission to the school district for the sole
10 reason of not completing the service or program required by his
11 or her rehabilitation plan if the pupil was unable to complete that
12 service or program due to factors outside of his or her control,
13 including, but not limited to, being unable to find a service or
14 program that is free of cost, or that is geographically accessible.

15 (2) Pursuant to Section 48916.5, the governing board of a school
16 district may require a pupil to enroll in a county-supported drug
17 rehabilitation program, except that a pupil shall not be required
18 to enroll in a county-supported drug rehabilitation program
19 without the consent of his or her parent or guardian. If a parent
20 or guardian opts to enroll his or her pupil in a county-supported
21 drug rehabilitation program for a fee pursuant to Section 48916.5,
22 the school district shall not be liable for the cost of the program.

23 (c) Pursuant to Part 30 (commencing with Section 56000) of
24 Division 4 of Title 2 of this code, Chapter 33 (commencing with
25 Section 1400) of Title 20 of the United States Code, and
26 accompanying state and federal regulatory provisions, school
27 districts operating community day schools shall ensure that
28 assessments are administered in all areas of suspected disability
29 and appropriate services and programs specified in a pupil's
30 individualized education program are provided.

31 (d) School districts operating community day schools shall
32 ensure that appropriate services and programs designed to address
33 the language needs of pupils identified as English learners are
34 provided in compliance with all applicable state and federal laws
35 and regulatory provisions.

36 SEC. 6. Section 48662 of the Education Code is amended to
37 read:

38 ~~48662. (a) The governing board of a school district that~~
39 ~~establishes a community day school shall adopt policies that~~

1 ~~provide procedures for the involuntary transfer of pupils to a~~
2 ~~community day school.~~

3 ~~(b)~~

4 48662. (a) A pupil may be ~~assigned~~ *involuntarily transferred*
5 *to a community day school by a school district* only if he or she
6 meets one or more of the following conditions:

7 (1) The pupil is expelled for any reason.

8 (2) The pupil is *on probation* ~~referred pursuant~~ *with or without*
9 *the supervision of a probation officer and consistent with an order*
10 *of a juvenile court, and is considered to be a ward of the court*
11 *under Sections 300 601 and 602 of the Welfare and Institutions*
12 *Code and is ordered placed pursuant to Sections 725, 729.2, and*
13 *791 of, and paragraph (2) of subdivision (a) of Section 727 of, the*
14 *Welfare and Institutions Code.*

15 (3) (A) The pupil is referred *by the school attendance review*
16 *board, or other district-level referral process, with the approval*
17 *of and a determination by the school district that the proposed*
18 *school will meet the educational needs of the pupil, including any*
19 *needs related to* ~~a the referral to the school attendance review~~
20 *board in the first instance. If the community day school* ~~by a is~~
21 *not geographically accessible to the pupil, the school attendance*
22 *review board, or other* ~~district-level district-level referral process.~~
23 *process, shall include a school option for the pupil that is*
24 *geographically accessible to the pupil. For purposes of this*
25 *paragraph, “geographically accessible” means that the pupil can*
26 *reasonably travel to and from the school and is able to pay for*
27 *any transportation costs that are above and beyond the costs to*
28 *attend his or her school of residence or prior school, whichever*
29 *is farther away.*

30 (B) *If the parent, guardian, or responsible adult has concerns*
31 *at any time about the appropriateness of the proposed placement,*
32 *he or she may raise those concerns with the school attendance*
33 *review board or the school district, and those concerns shall be*
34 *taken into consideration with regard to whether the placement*
35 *shall continue.*

36 (C) *The term for an involuntary transfer under this paragraph*
37 *shall be no longer than the end of the semester following the*
38 *semester during which the acts leading to the referral occurred,*
39 *at which time the pupil shall have the right to reenroll in his or*
40 *her prior school or another comprehensive school of the school*

1 *district. This section is not intended to limit the school placement*
2 *options that a school district may recommend. This section is not*
3 *intended to limit a pupil or the parent or guardian of a pupil from*
4 *making a request that the pupil continue his or her enrollment at*
5 *the community day school.*

6 ~~(4)~~

7 *(b) First priority for assignment to a community day school*
8 *shall be given to a pupil pupils expelled pursuant to subdivision*
9 *(d) of Section 48915, second priority shall be given to pupils*
10 *expelled for any other reasons, and third priority for placement*
11 *shall be given for placement to all other pupils pursuant to this*
12 *section, unless there is an agreement that the county superintendent*
13 *of schools shall serve any of these pupils.*

14 *(c) A pupil may be voluntarily transferred to a community day*
15 *school only if he or she meets one of the following conditions:*

16 *(1) The pupil is under the supervision of a probation officer,*
17 *with the consent of the minor and the minor's parent or guardian,*
18 *pursuant to Section 654 of the Welfare and Institutions Code.*

19 *(2) The pupil is under the supervision of a probation officer*
20 *pursuant to Section 726 of, and paragraph (3) of subdivision (a)*
21 *of Section 727 of, the Welfare and Institutions Code with the*
22 *consent of the pupil's parent, guardian, or responsible adult*
23 *appointed by the juvenile court to make educational decisions for*
24 *the pupil. The enrollment of a minor covered by this paragraph in*
25 *a community day school shall be consistent with paragraph (2) of*
26 *subdivision (c) of Section 726 of the Welfare and Institutions Code*
27 *and subdivision (h) of Section 48853, which provide that all*
28 *educational and school placement decisions shall seek to ensure*
29 *that the minor is in the least restrictive educational program, has*
30 *access to the academic resources, services, and extracurricular*
31 *and enrichment activities that are available to all pupils, and that*
32 *the decisions are based on the best interests of the child.*

33 *(3) The parent or guardian of the pupil has approved or*
34 *requested the pupil's placement in a community day school.*

35 *(4) A pupil who is recommended to attend a community day*
36 *school by a school district shall not be enrolled in a community*
37 *day school pursuant to paragraph (3) unless the school district*
38 *determines that the placement will promote the educational*
39 *interests of the pupil.*

1 (5) *The parent, guardian, or responsible adult of a pupil enrolled*
2 *in a community day school pursuant to paragraph (3) may rescind*
3 *the request for placement at the beginning of the semester or as*
4 *soon thereafter as possible, and the pupil shall be immediately*
5 *reenrolled in the school the pupil attended at the time of the*
6 *referral, or, with the consent of the parent, guardian, or responsible*
7 *adult, in another appropriate school.*

8 (d) *The procedures outlined in subdivisions (b) to (e), inclusive,*
9 *of Section 51225.2 govern the transfer of credits, records, including*
10 *special education records, and grades required pursuant to*
11 *subdivision (a) of Section 48645.5 and Section 49068 when the*
12 *pupil transfers to and from the community day school.*

13 (e) *Unless specifically ordered by a juvenile court, nothing in*
14 *this section shall be construed to conflict with the existing rights*
15 *of a parent or guardian or responsible adult appointed by the*
16 *juvenile court pursuant to Section 726 of the Welfare and*
17 *Institutions Code to make educational placement decisions for the*
18 *minor.*

19 (f) *Enrollment in a community day school pursuant to this*
20 *section shall be consistent with subdivision (b) of Section 48645.5.*

21 (g) *With respect to a voluntary transfer under paragraph (1)*
22 *or (2) of subdivision (c), and consistent with paragraph (2) of*
23 *subdivision (c) of Section 726 of the Welfare and Institutions Code*
24 *and California Rule of Court 5.651, all of the following shall apply:*

25 (1) *The attorney for, or the person holding the educational rights*
26 *of, a pupil who is under the jurisdiction of the delinquency court*
27 *may use the procedures set forth in California Rule of Court 5.651*
28 *to address any change of placement that results in the enrollment*
29 *of the pupil in a community day school that is not his or her school*
30 *of origin.*

31 (2) *The attorney or the person holding the educational rights*
32 *appointed by the court for a pupil who is under the jurisdiction of*
33 *the delinquency court may, during a regularly scheduled hearing,*
34 *raise any concerns with respect to whether the enrollment of the*
35 *pupil in a community day school is meeting the educational needs*
36 *of the pupil.*

37 (3) *Nothing in this subdivision is intended to limit in any way*
38 *the rights or responsibilities of any person as set forth in paragraph*
39 *(2) of subdivision (c) of Section 726 of the Welfare and Institutions*
40 *Code and California Rule of Court 5.651.*

1 SEC. 7. Section 48662.5 is added to the Education Code, to
2 read:

3 48662.5. (a) A pupil who has been involuntarily enrolled in a
4 community day school shall have the right to reenroll in his or her
5 former school or another comprehensive school immediately after
6 being readmitted pursuant to Section 48916 from an expulsion
7 order or court-ordered placement. Nothing in this section is
8 intended to limit the school placement options that a school district
9 may recommend for a pupil being readmitted.

10 (b) Consistent with the process and procedures set forth in
11 Section 48916, only the governing board of the school district that
12 issued the initial order or subsequent order to expel may extend
13 the duration of an expelled pupil's placement in a community day
14 school.

15 (c) Any school created for the purpose of enrolling pupils that
16 may be assigned to a community day school pursuant to Section
17 48662 shall follow the same procedures for the involuntary transfer
18 of pupils to a community day school set forth in this article.

19 SEC. 8. Section 48918 of the Education Code is amended to
20 read:

21 48918. The governing board of each school district shall
22 establish rules and regulations governing procedures for the
23 expulsion of pupils. These procedures shall include, but are not
24 necessarily limited to, all of the following:

25 (a) (1) The pupil shall be entitled to a hearing to determine
26 whether the pupil should be expelled. An expulsion hearing shall
27 be held within 30 schooldays after the date the principal or the
28 superintendent of schools determines that the pupil has committed
29 any of the acts enumerated in Section 48900, unless the pupil
30 requests, in writing, that the hearing be postponed. The adopted
31 rules and regulations shall specify that the pupil is entitled to at
32 least one postponement of an expulsion hearing, for a period of
33 not more than 30 calendar days. Any additional postponement may
34 be granted at the discretion of the governing ~~board~~: *board of the*
35 *school district*.

36 ~~Within~~
37 (2) *Within* 10 schooldays after the conclusion of the hearing,
38 the governing board *of the school district* shall decide whether to
39 expel the pupil, unless the pupil requests in writing that the decision
40 be postponed. If the hearing is held by a hearing officer or an

1 administrative panel, or if the ~~district~~ governing board *of the school*
2 *district* does not meet on a weekly basis, the governing board *of*
3 *the school district* shall decide whether to expel the pupil within
4 40 schooldays after the date of the pupil's removal from his or her
5 school of attendance for the incident for which the recommendation
6 for expulsion is made by the principal or the superintendent *of*
7 *schools*, unless the pupil requests in writing that the decision be
8 postponed.

9 If

10 (3) *If* compliance by the governing board *of the school district*
11 with the time requirements for the conducting of an expulsion
12 hearing under this subdivision is impracticable during the regular
13 school year, the superintendent of schools or the superintendent's
14 designee may, for good cause, extend the time period for the
15 holding of the expulsion hearing for an additional five schooldays.
16 If compliance by the governing board *of the school district* with
17 the time requirements for the conducting of an expulsion hearing
18 under this subdivision is impractical due to a summer recess of
19 governing board meetings of more than two weeks, the days during
20 the recess period shall not be counted as schooldays in meeting
21 the time requirements. The days not counted as schooldays in
22 meeting the time requirements for an expulsion hearing because
23 of a summer recess of governing board meetings shall not exceed
24 20 schooldays, as defined in subdivision (c) of Section 48925, and
25 unless the pupil requests in writing that the expulsion hearing be
26 postponed, the hearing shall be held not later than 20 calendar days
27 ~~prior to~~ *before* the first day of school for the school year. Reasons
28 for the extension of the time for the hearing shall be included as
29 a part of the record at the time the expulsion hearing is conducted.
30 Upon the commencement of the hearing, all matters shall be
31 pursued and conducted with reasonable diligence and shall be
32 concluded without any unnecessary delay.

33 (b) Written notice of the hearing shall be forwarded to the pupil
34 at least 10 calendar days ~~prior to~~ *before* the date of the hearing.
35 The notice shall include all of the following:

36 (1) The date and place of the hearing.

37 (2) A statement of the specific facts and charges upon which
38 the proposed expulsion is based.

39 (3) A copy of the disciplinary rules of the *school* district that
40 relate to the alleged violation.

1 (4) A notice of the parent, guardian, or pupil's obligation
2 pursuant to subdivision (b) of Section 48915.1.

3 (5) Notice of the opportunity for the pupil or the pupil's parent
4 or guardian to appear in person or to be represented by legal
5 counsel or by a nonattorney adviser, to inspect and obtain copies
6 of all documents to be used at the hearing, to confront and question
7 all witnesses who testify at the hearing, to question all other
8 evidence presented, and to present oral and documentary evidence
9 on the pupil's behalf, including witnesses. In a hearing in which
10 a pupil is alleged to have committed or attempted to commit a
11 sexual assault as specified in subdivision (n) of Section 48900 or
12 ~~committing to have committed~~ a sexual battery as defined in
13 subdivision (n) of Section 48900, a complaining witness shall be
14 given five days' notice before being called to testify, and shall be
15 entitled to have up to two adult support persons, including, but not
16 limited to, a parent, guardian, or legal counsel, present during ~~their~~
17 *his or her* testimony. Before a complaining witness testifies,
18 support persons shall be admonished that the hearing is
19 confidential. ~~Nothing in this~~ *This* subdivision shall *not* preclude
20 the person presiding over an expulsion hearing from removing a
21 support person whom the presiding person finds is disrupting the
22 hearing. If one or both of the support persons is also a witness, the
23 provisions of Section 868.5 of the Penal Code shall be followed
24 for the hearing. This section does not require a pupil or the pupil's
25 parent or guardian to be represented by legal counsel or by a
26 nonattorney adviser at the hearing.

27 (A) For purposes of this section, "legal counsel" means an
28 attorney or lawyer who is admitted to the practice of law in
29 California and is an active member of the State Bar of California.

30 (B) For purposes of this section, ~~"nonattorney-adviser"~~ *adviser*
31 means an individual who is not an attorney or lawyer, but who is
32 familiar with the facts of the case, and has been selected by the
33 pupil or pupil's parent or guardian to provide assistance at the
34 hearing.

35 (c) ~~(1) Notwithstanding Section 54593 of the Government~~
36 ~~Code and Section 35145, the governing board of the school district~~
37 shall conduct a hearing to consider the expulsion of a pupil in a
38 session closed to the public, unless the pupil requests, in writing,
39 at least five days before the date of the hearing, that the hearing
40 be conducted at a public meeting. Regardless of whether the

1 expulsion hearing is conducted in a closed or public session, the
2 governing board *of the school district* may meet in closed session
3 for the purpose of deliberating and determining whether the pupil
4 should be expelled.

5 If

6 (2) *If* the governing board *of the school district* or the hearing
7 officer or administrative panel appointed under subdivision (d) to
8 conduct the hearing admits any other person to a closed deliberation
9 session, the parent or guardian of the pupil, the pupil, and the
10 counsel of the pupil also shall be allowed to attend the closed
11 deliberations.

12 If

13 (3) *If* the hearing is to be conducted at a public meeting, and
14 there is a charge of committing or attempting to commit a sexual
15 assault as defined in subdivision (n) of Section 48900 or
16 ~~committing to commit~~ a sexual battery as defined in subdivision
17 (n) of Section 48900, a complaining witness shall have the right
18 to have his or her testimony heard in a session closed to the public
19 when testifying at a public meeting would threaten serious
20 psychological harm to the complaining witness and there are no
21 alternative procedures to avoid the threatened harm, including, but
22 not limited to, videotaped deposition or contemporaneous
23 examination in another place communicated to the hearing room
24 by means of closed-circuit television.

25 (d) Instead of conducting an expulsion hearing itself, the
26 governing board *of the school district* may contract with the county
27 hearing officer, or with the Office of Administrative Hearings ~~of~~
28 ~~the State of California~~ pursuant to Chapter 14 (commencing with
29 Section 27720) of Part 3 of Division 2 of Title 3 of the Government
30 Code and Section ~~35207~~, *35207 of this code*, for a hearing officer
31 to conduct the hearing. The governing board *of the school district*
32 may also appoint an impartial administrative panel of three or more
33 certificated persons, none of whom is a member of the *governing*
34 *board of the school district* or employed on the staff of the school
35 in which the pupil is enrolled. The hearing shall be conducted in
36 accordance with all of the procedures established under this section.

37 (e) Within three schooldays after the hearing, the hearing officer
38 or administrative panel shall determine whether to recommend the
39 expulsion of the pupil to the governing ~~board~~ *board of the school*
40 *district*. If the hearing officer or administrative panel decides not

1 to recommend expulsion, the expulsion proceedings shall be
2 terminated and the pupil immediately shall be reinstated and
3 permitted to return to ~~a the classroom instructional program, any~~
4 ~~other instructional program, a rehabilitation program, program~~
5 ~~from which the expulsion referral was made, unless the parent,~~
6 ~~guardian, or any combination responsible adult of these programs.~~
7 ~~Placement the pupil requests another school placement in one or~~
8 ~~more of these programs shall be writing. Before the placement~~
9 ~~decision is made by the parent, guardian, or responsible adult,~~
10 ~~the superintendent of schools or the superintendent's designee~~
11 ~~after consultation shall consult~~ with school district personnel,
12 including the pupil's teachers, and the ~~pupil's parent~~ parent,
13 guardian, or ~~guardian~~ responsible adult regarding any other
14 school placement options for the pupil in addition to the option to
15 return to his or her classroom instructional program from which
16 the expulsion referral was made. If the hearing officer or
17 administrative panel finds that the pupil committed any of the acts
18 specified in subdivision (c) of Section 48915, but does not
19 recommend expulsion, the pupil shall be immediately reinstated
20 but may be referred to his or her prior school, or, pursuant to the
21 procedures set forth in Section 48432.5, a continuation school of
22 the school district. The decision not to recommend expulsion shall
23 be final.

24 (f) (1) If the hearing officer or administrative panel
25 recommends expulsion, findings of fact in support of the
26 recommendation shall be prepared and submitted to the governing
27 ~~board.~~ board of the school district. All findings of fact and
28 recommendations shall be based solely on the evidence adduced
29 at the hearing. If the governing board of the school district accepts
30 the recommendation calling for expulsion, acceptance shall be
31 based either upon a review of the findings of fact and
32 recommendations submitted by the hearing officer or panel or
33 upon the results of any supplementary hearing conducted pursuant
34 to this section that the governing board of the school district may
35 order.

36 The
37 (2) The decision of the governing board of the school district
38 to expel a pupil shall be based upon substantial evidence relevant
39 to the charges adduced at the expulsion hearing or hearings. Except
40 as provided in this section, no evidence to expel shall be based

1 solely upon hearsay evidence. The governing board *of the school*
2 *district* or the hearing officer or administrative panel may, upon a
3 finding that good cause exists, determine that the disclosure of
4 either the identity of a witness or the testimony of that witness at
5 the hearing, or both, would subject the witness to an unreasonable
6 risk of psychological or physical harm. Upon this determination,
7 the testimony of the witness may be presented at the hearing in
8 the form of sworn declarations ~~which~~ *that* shall be examined only
9 by the governing board *of the school district* or the hearing officer
10 or administrative panel. Copies of these sworn declarations, edited
11 to delete the name and identity of the witness, shall be made
12 available to the pupil.

13 (g) A record of the hearing shall be made. The record may be
14 maintained by any means, including electronic recording, so long
15 as a reasonably accurate and complete written transcription of the
16 proceedings can be made.

17 (h) (1) Technical rules of evidence shall not apply to the
18 hearing, but relevant evidence may be admitted and given probative
19 effect only if it is the kind of evidence upon which reasonable
20 persons are accustomed to rely in the conduct of serious affairs.
21 A decision of the governing board *of the school district* to expel
22 shall be supported by substantial evidence showing that the pupil
23 committed any of the acts enumerated in Section 48900.

24 ~~In~~

25 (2) *In* hearings ~~which~~ *that* include an allegation of committing
26 or attempting to commit a sexual assault as defined in subdivision
27 (n) of Section 48900 or ~~committing~~ *to commit* a sexual battery as
28 defined in subdivision (n) of Section 48900, evidence of specific
29 instances, of a complaining witness' prior sexual conduct is to be
30 presumed inadmissible and shall not be heard absent a
31 determination by the person conducting the hearing that
32 extraordinary circumstances exist requiring the evidence be heard.
33 Before the person conducting the hearing makes the determination
34 on whether extraordinary circumstances exist requiring that specific
35 instances of a complaining witness' prior sexual conduct be heard,
36 the complaining witness shall be provided notice and an
37 opportunity to present opposition to the introduction of the
38 evidence. In the hearing on the admissibility of the evidence, the
39 complaining witness shall be entitled to be represented by a parent,
40 guardian, legal counsel, or other support person. Reputation or

1 opinion evidence regarding the sexual behavior of the complaining
2 witness is not admissible for any purpose.

3 (i) (1) Before the hearing has commenced, the governing board
4 *of the school district* may issue subpoenas at the request of either
5 the superintendent of schools or the superintendent's designee or
6 the pupil, for the personal appearance of percipient witnesses at
7 the hearing. After the hearing has commenced, the governing board
8 *of the school district* or the hearing officer or administrative panel
9 may, upon request of either the county superintendent of schools
10 or the superintendent's designee or the pupil, issue subpoenas. All
11 subpoenas shall be issued in accordance with Sections 1985,
12 1985.1, and 1985.2 of the Code of Civil Procedure. Enforcement
13 of subpoenas shall be done in accordance with Section 11455.20
14 of the Government Code.

15 (2) Any objection raised by the superintendent of schools or the
16 superintendent's designee or the pupil to the issuance of subpoenas
17 may be considered by the governing board *of the school district*
18 in closed session, or in open session, if so requested by the pupil
19 before the meeting. Any decision by the governing board *of the*
20 *school district* in response to an objection to the issuance of
21 subpoenas shall be final and binding.

22 (3) If the governing ~~board;~~ *board of the school district*, hearing
23 officer, or administrative panel determines, in accordance with
24 subdivision (f), that a percipient witness would be subject to an
25 unreasonable risk of harm by testifying at the hearing, a subpoena
26 shall not be issued to compel the personal attendance of that
27 witness at the hearing. However, that witness may be compelled
28 to testify by means of a sworn declaration as provided for in
29 subdivision (f).

30 (4) Service of process shall be extended to all parts of the state
31 and shall be served in accordance with Section 1987 of the Code
32 of Civil Procedure. All witnesses appearing pursuant to subpoena,
33 other than the parties or officers or employees of the state or any
34 political subdivision ~~thereof;~~ *of the state*, shall receive fees, and
35 all witnesses appearing pursuant to subpoena, except the parties,
36 shall receive mileage in the same amount and under the same
37 circumstances as prescribed for witnesses in civil actions in a
38 superior court. Fees and mileage shall be paid by the party at whose
39 request the witness is subpoenaed.

(j) Whether an expulsion hearing is conducted by the governing board *of the school district* or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the governing board *of the school district* in a public session. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent by the superintendent of schools or his or her designee to the pupil or the pupil's parent or guardian and shall be accompanied by all of the following:

(1) Notice of the right to appeal the expulsion to the county board of education.

(2) Notice of the education alternative placement to be provided to the pupil during the time of expulsion.

(3) Notice of the obligation of the parent, guardian, or pupil under subdivision (b) of Section 48915.1, upon the pupil's enrollment in a new school district, to inform that *school* district of the pupil's expulsion.

(k) (1) The governing board *of the school district* shall maintain a record of each expulsion, including the cause ~~therefor~~ *for the expulsion*. Records of expulsions shall be a nonprivileged, disclosable public record.

~~The~~
(2) ~~The~~ expulsion order and the causes ~~therefor~~ *for the expulsion* shall be recorded in the pupil's mandatory interim record and shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil's school records.

SEC. 9. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.